



Donald L. Horwitz  
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February 27, 2015

Via CFTC Portal Submissions

Mr. Christopher Kirkpatrick  
Secretary of the Commission  
Office of the Secretariat  
Commodity Futures Trading Commission  
3 Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington D.C. 20581

**RE: Self-Certification of Rule Amendments: Nadex Amends Language Regarding Financial Institution and Withdrawals for non-US Resident Members – Submission Pursuant to Commission Regulation §40.6(a)**

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and section §40.6(a) of the regulations promulgated by the Commodity Futures Trading Commission (the “Commission”) under the Act (the “Regulations”), North American Derivatives Exchange, Inc. (“Nadex”, the “Exchange”) hereby submits to the Commission its intent to amend language in its Membership Agreement and Rulebook regarding Financial Institutions and withdrawals for non-US resident Members.

Nadex is amending its definition of “Financial Institution” in Rule 1.1 to specify which types of financial institutions set forth in 31 CFR 1010.100(t) are acceptable for making deposits. Additionally, Nadex is amending the language order in Rule 3.1 (Trading Members – Applications, Classifications, and Privileges) to accurately describe the process of non-US resident Members making deposits and withdrawals. Nadex is also amending the language in its Rule 6.4 (Settling Member Withdrawal Requests), to note that withdrawals for non-United States resident Members who do not have an account at a US Financial Institution would be sent to the account at the Foreign Bank registered with Nadex on that Member’s account. Finally, Nadex is amending language in its Membership Agreement with respect to making deposits from a ‘bank account’ as that is only one of the several types of Financial Institutions from which Nadex will accept deposits.

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### **DCM Core Principle Compliance**

Nadex has identified the following Designated Contract Market (“DCM”) Core Principles as potentially being impacted by the amendments discussed herein: Core Principle 7 (Availability of General Information); and Core Principle 11 (Financial Integrity of Transactions).

Core Principle 7 (Availability of General Information), implemented by regulation 38.401, requires the DCM to ensure its Rulebook is accurate and available on its website. Nadex currently makes its Rulebook and Membership Agreement available on its website and will continue to do so after the amendments discussed herein are effected. The changes being made will provide a more precise definition of what types of deposits are acceptable, as well as clarify the process for non-US resident Members to make withdrawals. Therefore, Nadex’s ability to comply with this Core Principle will not be negatively impacted.

Core Principle 11 (Financial Integrity of Transactions), implemented by regulation 38.602, requires the DCM to provide for the financial integrity of its transactions by establishing and maintaining appropriate minimum financial standards for its members. The amendments discussed herein are not changing the current requirements or standards for Members, whether US or non-US residents, rather they are clarifying these requirements. Therefore, Nadex’s ability to comply with this Core Principle will not be negatively impacted.

### **DCO Core Principle Compliance**

Nadex has identified the following Derivatives Clearing Organization (“DCO”) Core Principle as potentially being impacted by the amendments discussed herein: Core Principle L (Public Information).

Core Principle L (Public Information), implemented by regulation 39.21, requires the DCO to make its Rulebook readily available to the general public. Nadex currently makes its Rulebook and Membership Agreement available on its website and will continue to do so after the amendments discussed herein are effected. As stated above, the changes being made will provide a more precise definition of what types of deposits are acceptable, as well as clarify the process for non-US resident Members to make withdrawals. Therefore, Nadex’s ability to comply with this Core Principle will not be negatively impacted.

In accordance with the 10-day review period set forth in Commission Regulation 40.6(b), Nadex plans to implement these Rule changes for the start of business on trade date March 16, 2015.

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These Rule changes have been outlined in Exhibit A. The amendments to the Rulebook are set forth in Exhibit B. Changes to the Membership Agreement are set forth in Exhibit C. Any deletions are stricken out while the amendments and/or additions are underlined.

Nadex hereby certifies that the additions contained herein comply with the Act, as amended, and the Commission Regulations adopted thereunder.

Nadex hereby certifies that a copy of these additions was posted on its website at the time of this filing.

Should you have any questions regarding the above, please do not hesitate to contact me by telephone at (312) 884-0953 or by email at [donald.horwitz@nadex.com](mailto:donald.horwitz@nadex.com).

Sincerely,

A handwritten signature in black ink that reads "Donald L. Horwitz". The signature is written in a cursive style with a large initial 'D' and 'H'.

Donald L. Horwitz General Counsel and  
Chief Regulatory Officer

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**EXHIBIT A**

<b>Rule</b>	<b>Asset</b>	<b>Duration/Close Time</b>	<b>Action</b>	<b>Effective Date</b>
1.1	Definitions	N/A	Amend language regarding 'Financial Institution'.	3/16/2015
3.1	Trading Members – Applications, Classifications, and Privileges	N/A	Amend language to accurately describe deposit and withdrawal for non-US Members.	3/16/2015
6.4	Settling Member Withdrawal Requests	N/A	Amend language to accommodate non-US Members making withdrawals.	3/16/2015

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## **EXHIBIT B**

Amendments of 1.1, 3.1, and 6.4

*(The following Rule amendments are underlined and deletions are stricken out)*

### RULE 1.1 DEFINITIONS

When used in these Rules:

**“Authorized Trader”** means an individual employed by a Member who is authorized by that Member to have direct access to Nadex, provided the Member maintains supervisory authority over such individual’s trading activities.

**“Binary Contract”** means the right to receive a fixed Settlement Value per contract, from Nadex on the Settlement Date dependent upon whether you are holding a long position or short position in a Binary Contract. If you are holding a long position in a Binary Contract, you have the right to receive a fixed Settlement Value from Nadex on the Settlement Date, if, and only if, the Binary Contract’s Payout Criteria encompasses the Expiration Value at Expiration. Conversely, if you are holding a short position in a Binary Contract, you have the right to receive a fixed Settlement Value if, and only if, the Binary Contract’s Payout Criteria does NOT encompass the Expiration Value at Expiration.

**“Cap”** means the maximum rate, level, amount, measure or other value of the Underlying of a Variable Payout Contract that may be the Expiration Value or the Closing Trade Value. If the actual rate, level, amount, measure, or other value of the Underlying meets or exceeds the Cap at Expiration, the Cap will be the Expiration Value.

**“Class”** means all Contracts of the same Type with the same Underlying.

**“Closing Trade Value”** means the rate, level, amount, measure, or other value of the Underlying of a Variable Payout Contract at which the Contract is closed in a Member’s or Customer’s account.

**“Commodity Futures Trading Commission” or “Commission”** means the Federal regulatory agency established by the Commodity Futures Trading act of 1974 to administer the Commodity Exchange Act.

**“Contract”** means a Variable Payout Contract or a Binary Contract.

**“Correspondent Account”** means an account as that term is defined in 31 CFR 1010.605(c).

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**“Customer”** means a Commodity Customer, a Cleared Swap Customer, a FCM Member or a Trading member of Nadex, as the context requires. In this regard,

(i) “Commodity Customer” has the meaning set forth in Commission Regulation 1.3(k);

(ii) “Cleared Swap Customer” has the meaning set forth in Commission regulation 22.1;

(iii) “DCO Customer” has the same meaning as the definition “customer” set forth in Commission Regulation 190.01(l) and section 761(9) of the Bankruptcy Code and includes FCM Members and Trading Members of Nadex.

**“Dollar Multiplier”** means the monetary amount by which the rate, level, amount, measure, or other value of an Underlying of a Variable Payout Contract is multiplied to determine the Settlement Value.

**“End Date”** means the last day on which a delivery month will be used as the Underlying for Nadex contracts.

**“Expiration”** means the time on the Expiration Date established by these Rules at which a Contract expires and the Expiration Value of that Contract is determined.

**“Expiration Date”** means the date established by these Rules on which the Expiration Value of each Contract is determined.

**“Expiration Value”** means the rate, level, amount, measure, or other value of the Underlying at Expiration as calculated and/or published by the Source Agency.

**“FCM Member”** means any Member that is registered with the Commission as a Futures Commission Merchant and as a swap firm and is authorized by Nadex to intermediate orders of Commodity Customers or Cleared Swap Customers on the Market.

**“Financial Institution”** means a financial institution as that term is defined in 31 CFR 1010.100(t), subsections (1), (2), and (8), that is required to comply with the regulations issued by the United States Department of Treasury under the Bank Secrecy Act including, but not limited to, the anti-money laundering program and customer identification program rules.

**“Floor”** means the minimum rate, level, amount, measure, or other value of the Underlying of a Variable Payout Contract that may be the Expiration Value or the Closing Trade Value. If the actual rate, level, amount, measure or other value of the Underlying meets or falls below the Floor on the Expiration Date, the Floor will be the Expiration Value.

**“Foreign Bank”** means a bank as that term is defined in 31 CFR 1010.100(u).

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**“Last Trading Day”** means, for a particular Contract, the last date on which that Contract may be traded on the Market.

**“Long Variable Payout Contract”** means (i) the right to receive at the time the Contract is closed or on the Settlement Date any positive number resulting from subtracting the Opening Trade Value from (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, and then multiplying the resulting figure by the Dollar Multiplier and (ii) the obligation to pay at the time the contract is closed or on the Settlement Date any positive number resulting from subtracting from the Opening Trade Value (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, and then multiplying the resulting figure by the Dollar Multiplier.

**“Market Maker”** means a Member that is granted certain privileges in exchange for assuming certain responsibilities as set forth in Chapter 4 of these Rules for the purpose of creating liquidity for certain Classes of Contracts.

**“Member”** means a Person who is approved by Nadex to be a Trading Member or a FCM\_Member and who is bound by these Rules as they may be amended from time to time.

**“Opening Trade Value”** means the rate, level, amount, measure, or other value of the Underlying of a Variable Payout Contract at which the Contract is opened in a Member’s account.

**“Payout Criterion”** of a Contract means the Expiration Value or range of Expiration Values that will cause that Contract to pay a Settlement Value to the holder of a long position or the holder of a short position in such Contract. The holder of a long or short position in a Contract that receives a Settlement Value is considered to be “in-the-money” while the holder of either a long or short position in a Contract that does NOT receive a Settlement Value is considered to be “out-of-the-money”.

**“Person”** means an individual, sole proprietorship, corporation, limited liability company, partnership, trust, or any other entity.

**“Regulatory Agency”** means any government body, including the Commission and Securities and Exchange Commission, and any organization, whether domestic or foreign, granted authority under statutory or regulatory provisions to regulate its own activities and the activities of its members, and includes Nadex, any other clearing organization or contract market, any national securities exchange or clearing agency, the National Futures Association (“NFA”) and the Financial Industry Regulatory Authority (“FINRA”).

**“Series”** means all Contracts of the same Class having identical terms, including Payout Criterion and Expiration Date.

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**“Settlement Date”** means the date on which money is paid to the account of a Member who has the right to receive money pursuant to a Variable Payout Contract or Binary Contract held until Expiration, and on which money is paid from the account of a Member who is obligated to pay money pursuant to a Variable Payout Contract held until Expiration. Unless otherwise specified in these Rules, the Settlement Date is the same day as the Expiration Date.

**“Settlement Value”** means the amount paid to the holders of in-the-money Contracts. The minimum Settlement Value of a Binary Contract is \$100. The Settlement Value of a Variable Payout Contract is determined as described in the definition for Long and Short Variable Payout Contracts.

**“Short Variable Payout Contract”** means (i) the right to receive at the time the Contract is closed or on the Settlement Date any positive number resulting from subtracting from the Opening Trade Value (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, and then multiplying the resulting figure by the Dollar Multiplier and (ii) the obligation to pay at the time the Contract is closed or on the Settlement Date any positive number resulting from subtracting the Opening Trade Value from (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, then multiplying the resulting figure by the Dollar Multiplier.

**“Source Agency”** means the agency that publishes the Underlying economic indicator and/or Expiration Value for any Contract.

**“Speculative Position Limits,” or “Position Limit”** means the maximum position, either net long or net short, in one Series or a combination of various Series of a particular Class that may be held or controlled by one Member as prescribed by Nadex and/or the Commission.

**“Start Date”** means the date on which a new delivery month will be used as the Underlying for Nadex contracts.

**“Trade Day”** means the regular trading session on any given calendar date and the evening session, if any, on the immediately preceding calendar date, as specified in Rule 5.11.

**“Trading Member”** means a Person who has been approved by Nadex to trade directly and not through a FCM Member on the Market, and does not include any FCM Member.

**“Type”** means the classification of a Contract as a Variable Payout Contract or a Binary Contract.

**“Underlying”** means the index, rate, risk, measure, instrument, differential, indicator, value, contingency, occurrence, or extent of an occurrence the Expiration Value of which determines whether (and, in the case of a Variable Payout Contract, to what extent) a Contract is in-the-money.

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**“Variable Payout Contract”** means a Long Variable Payout Contract and/or a Short Variable Payout Contract (such Variable Payout Contracts are also referred to as “Spread(s)” or “Narrow Spread(s)”).

**“12PM”** or **“12:00 PM”** means 12:00 Noon

RULES 1.2 – 2.10 [UNCHANGED]

RULE 3.1 TRADING MEMBERS - APPLICATIONS, CLASSIFICATIONS, AND PRIVILEGES

(a) To be eligible to become a Trading Member:

(i) An applicant who is an individual, must:

1) provide Nadex with any information or documentation Nadex deems necessary in order to verify the applicant’s identity, perform a criminal background check, or otherwise review information provided on an Application for Membership or by a third party provider<sup>1</sup>;

2) have an account or accounts in the Trading Member’s name with a Financial Institution that the Trading Member will use to fund its Nadex account at the Nadex settlement bank, and to receive funds from its Nadex account, or, if the Trading Member is a non-United States resident, have an account or accounts in the Trading Member’s name with either a US Financial Institution or a Foreign Bank that the Trading Member will use to fund its Nadex account at the Nadex settlement bank, through a Correspondent Account, and to receive funds from its Nadex account, ~~through a Correspondent Account~~, via one of the acceptable methods as stated on the Nadex website<sup>2</sup>; and

3) certify that

(A) the applicant is old enough to enter into a legally enforceable contract and has reached the required age as stated on the Membership Agreement;

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<sup>1</sup> Required documentation may vary depending on the applicant’s residential location. Specific residential locations from which Nadex may accept applications for Membership will be identified on the Nadex Membership application.

<sup>2</sup> All funds deposited into the Trading Member’s Nadex account at the Nadex settlement bank shall be in U.S. dollars. All withdrawal payments from the Trading Member’s Nadex account will also be made in U.S. dollars.

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(B) the applicant has read and understands the Nadex Risk Disclosure Statement and Membership Agreement;

(C) the applicant agrees to be bound by these Rules; and

(D) the applicant will trade only for itself and will not trade as an intermediary for any other person or entity.

(ii) An applicant that is an entity must

(1) be organized in the United States;

(2) provide Nadex with a valid Taxpayer Identification Number;

(3) provide Nadex with a valid Legal entity Identifier as described in Commission Regulation §45.6;

(4) have an account or accounts in the Trading Member's name with a Financial Institution that the Trading Member will use to fund its Nadex account at the Nadex settlement bank, and to receive funds from its Nadex account, via one of the acceptable methods as stated on the Nadex website; and

(5) designate Authorized Trader(s) to trade its account and agree that such Authorized Trader(s) will trade only for it and will not trade for him/herself or as an intermediary for any other entity or person;

(6) designate at least one officer who is responsible for supervising all activities of its employees relating to transactions effected on Nadex or subject to Nadex Rules and provide any information Nadex may request regarding such officer(s);

(7) agree to be bound by these Rules; and

(8) certify that

(A) the applicant is validly organized, in good standing, in the United States;

(B) the applicant is authorized by its governing body and, if relevant, documents of organization, to trade commodities, swaps, futures and options contracts, and

(C) the applicant has read and understands the Nadex Risk Disclosure Statement and Membership Agreement.

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(b) In order to become a Trading Member, an applicant who is an individual must complete and submit the Nadex on-line membership application, provide Nadex with any other information Nadex may request, and fund its Nadex account by transferring to the appropriate segregated Cleared Swap Proprietary Account at Nadex's settlement bank an initial deposit of no less than \$100 in funds from its account at a Financial Institution. An applicant who is an entity must complete an Account Certification, Membership Agreement, and W-9, which collectively shall constitute the membership application, provide Nadex with any other information Nadex may request, and fund its Nadex account by transferring to the appropriate segregated Cleared Swap Proprietary Account at Nadex's settlement bank an initial deposit of no less than \$100 in funds from its account at a Financial Institution. All funds deposited by Trading Members shall constitute "Member Property" in accordance with CFTC Regulations.

(c) Submission of a membership application to Nadex constitutes the applicant's agreement to be bound by these Rules and other policies of Nadex.

(d) If an application is approved by Nadex and the Nadex settlement bank confirms to Nadex that the applicant has deposited with it the funds required in paragraph (b) of this Rule, the applicant will be a Trading Member of Nadex and will have the following privileges, which Nadex may revoke, amend, or expand in accordance with, or by amending, these Rules:

(i) to maintain a Nadex account;

(ii) to buy Contracts on the Market using the funds in its Nadex account;

(iii) to sell Contracts on the Market using the funds in its Nadex account;

(iv) to view "real-time" the same best bids to buy and offers to sell the Contracts traded on the Market as are available to all other Members;

(v) to receive access to the Market via the FIX Gateway, provided the Trading Member executes a Nadex FIX Connection Agreement, agrees to pay any and all trading and other fees or charges incurred for such access and complies with any requirements or restrictions established by Nadex in connection with such access;

(vi) to view the current trading volume and open interest for the Contracts traded on the Market; and

(vii) to view all non-secure parts of the Nadex website, including these Rules, and descriptions of Contracts traded on the Market as well as all secure parts of the Nadex website outlined above in Rule 3.1(d)(i) – (vi).

(e) Nadex may in its sole discretion approve, deny, or condition any Member application as Nadex deems necessary or appropriate.

(f) A Trading Member that is an individual, may not maintain and/or trade more than one Nadex account. The Authorized Trader(s) of a Trading Member that is an entity, may not

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maintain a separate Nadex account and/or trade any Nadex account other than that entity's account.

RULE 3.2 – 6.3 [UNCHANGED]

#### RULE 6.4 SETTling MEMBER WITHDRAWAL REQUESTS

Within one settlement bank business day of when a Member requests to withdraw funds from its Nadex account, Nadex will transmit such request to its settlement bank in electronic batch mode transmission. The settlement bank will process that request and send those funds to the account at the Financial Institution as that term is defined in Rule 1.1, or Foreign Bank in the case of a non-United States resident Member who does not have an account at a US Financial Institution, registered with Nadex by the Member (unless the Member and, in the case of FCM Members, any FCM Customer of that FCM Member has unsatisfied outstanding obligations on Nadex, in which case Nadex may retain such balances as necessary to satisfy such obligations or until the Member otherwise satisfies such obligations). The Member should refer to Nadex's website under the Fee Schedule for all fees and costs associated with withdrawal of funds from the Member's Nadex account.

RULES 6.5 – 12.78 [UNCHANGED]

*End of Rulebook.*

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# EXHIBIT C

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NADEX

# MEMBERSHIP AGREEMENT

PLEASE CAREFULLY READ AND MAKE SURE YOU UNDERSTAND THIS ENTIRE MEMBERSHIP AGREEMENT, INCLUDING ALL DOCUMENTS INCORPORATED BY REFERENCE, BEFORE CLICKING "I ACCEPT" TO INDICATE YOUR AGREEMENT TO BE BOUND BY THIS MEMBERSHIP AGREEMENT. CLICKING THE "I ACCEPT" BUTTON IS THE LEGAL EQUIVALENT OF YOU MANUALLY SIGNING THIS MEMBERSHIP AGREEMENT.

## INTRODUCTION

Welcome to North American Derivatives Exchange, Inc. ("Nadex"), the first fully electronic, retail-focused financial trading platform in the United States. Before You can become a Member and trade on Nadex, You must read and accept this Membership Agreement, including all documents incorporated by reference.

## DEFINITIONS

**Access Materials:** The unique Username and Password chosen by You to enable You to access Your Nadex Account.

**Account:** This term refers to the relationship between You and Nadex established to provide You with access to trade on Nadex as well as to deposit funds and engage in other financial transactions associated with said relationship. The Account is in the name of the approved Member, whether it be a natural person or entity.

**Affiliates:** This includes all of Nadex's Officers, Directors, Agents, Subsidiaries, Joint Ventures and Employees.

**Nadex:** A centralized market place, designated as a contract market and derivatives clearing organization by the U.S. Commodity Futures Trading Commission ("CFTC"), where Nadex Members can trade certain derivative instruments with each other.

**Nadex, Inc.:** A Delaware corporation with its principal place of business in Chicago, Illinois.

**Nadex System:** This is the entire Nadex System which gives authorized Members access to the Nadex electronic trading system for trading certain derivative instruments under the terms and conditions stated in this Membership Agreement and in the Nadex Rules. This term includes the Nadex website and any services offered by Nadex, Inc. and its third party service providers.

**Member:** An individual or entity which has been approved as a Trading Member by Nadex to trade on Nadex and is bound by this Membership Agreement and subsequent amendments hereto.

**Membership Agreement:** This document and the following documents incorporated herein by reference: Nadex Rules, Nadex Privacy Policy, Nadex Risk Disclosure Statement, Nadex Terms of Use, and any amendments to these documents. For Members who are entities, the Membership Agreement also incorporates the applicable certification or authorization forms that authorizes certain persons to trade on the entity's behalf.

**Membership Application:** The on-line or paper form by which an applicant provides his/her/its personal information, including, but not limited to, social security number/ national identification number, name, address, date of birth, principal occupation, U.S. bank account information (if applicant is an entity), email address, and any subsequent updates or changes to said personal information. The Membership Application also includes all of the terms and conditions incorporated into this Membership Agreement.

**You, Your:** These terms refer to the individual or entity who is the Member or applicant for membership on Nadex. For entities applying for membership, each authorized representative trading on behalf of said entity is also incorporated into the definition of these terms.

Other capitalized terms are defined in the text below.

In consideration of Nadex, Inc. providing a market to enable You to trade for Your own Account, You hereby agree as follows:

## MEMBER ACKNOWLEDGEMENTS AND AUTHORIZATIONS

(a) You authorize Nadex to take whatever actions are necessary to execute, clear, and settle orders entered into the Nadex System for Your Account. You authorize Nadex to rely upon any instruction received through use of Your Access Materials without further inquiry, and Nadex shall not be liable to You even if such orders were not authorized by You. You accept full responsibility for monitoring Your Account to ensure that trades have been executed correctly and to ensure that no unauthorized trading is occurring in Your Account. Nadex is not responsible for any Member errors or negligent use of the Nadex System and will not cover losses relating to such improper or negligent use. You shall maintain the confidentiality of Your Access Materials and prevent the unauthorized use of Your Access Materials at all times. If You become aware of any deliberate or inadvertent disclosure, loss, theft or unauthorized use of Your Access Materials, You must notify Nadex immediately and request a new password. You may not access or attempt to access the Nadex System using the Access Materials of any other Member, or permit any other person or entity to access or attempt to access the Nadex System using Your Access Materials. Any and all materials that Nadex provides to You in connection with the Nadex System are the property of Nadex and are intended for Your sole and individual use.

(b) You agree that any amounts owed to You by Nadex will be deemed to have been paid when deposited by any form of electronic payment or wire transfer into the bank account on file with Your Account.

(c) You agree that all communications with Nadex, including keystrokes entered by You on the Nadex System and any telephone calls between You and Nadex may be recorded without further notice, and such recordings may be provided to regulatory authorities (in conformance with applicable laws and regulations) and used as evidence in the event of any dispute. Such recordings will be and remain the sole property of Nadex and will, in the absence of manifest error, be accepted by You as evidence of the communications so recorded. The period of retention of such recordings shall be at the sole discretion of Nadex, which will act in conformity with applicable laws and regulations.

(d) You acknowledge and agree that Nadex does not and will not provide You with any legal, tax, estate planning or accounting advice or advice regarding the suitability, profitability or appropriateness for You of any investment, financial product, investment strategy or other matter. Specifically, You acknowledge and agree that Nadex has not undertaken and will not undertake an independent evaluation of whether derivatives trading or each transaction entered into by You is appropriate for You. You are solely responsible for all determinations in this regard.

(e) You acknowledge that any information provided by Nadex will not be used or considered by You as a recommendation, offer or a solicitation of an offer, to buy, sell or hold a particular investment or pursue any investment strategy.

(f) You acknowledge that Nadex neither assumes responsibility for nor guarantees the accuracy, completeness or usefulness of information, commentary, recommendations, advice, investment ideas or other materials that may be accessed by You through the Nadex System. This includes, but is not limited to, bulletin boards, website links, quotes, message boards, chat services or other online conference or telecast by third-party providers through the Nadex System. If You rely on such information, You do so solely at Your own risk.

(g) You acknowledge and agree that You will, following a request by Nadex, promptly provide to Nadex financial or other information as Nadex may reasonably request or as may be required for Nadex to respond to a request for information from the Commodity Futures Trading Commission ("CFTC") or other regulatory or judicial bodies.

(h) You acknowledge and agree that all activity on the Nadex System and all services performed by Nadex, including but not limited to any clearing service, take place in the United States and are subject to the jurisdiction of the United States.

(i) Before clicking "I Accept", You will have read and understood all Nadex Rules.



(j) Before clicking "I Accept", You will have read and understood the website Terms of Use governing the use of the Nadex System.

(k) Before clicking I Accept, You will have read and understood Nadex's Privacy Policy. The Privacy Policy can be found [here](#). If You object to Your information being transferred or used in any of the ways stated in the Privacy Policy, please do not apply for membership on Nadex.

(l) Before clicking "I Accept", You will have read and understood Nadex's Risk Disclosure Statement. The Risk Disclosure Statement can be found [here](#).

(m) You acknowledge and agree that once you have completed the online Membership Application, click "I accept" to all of the documentation contained therein, you will have electronically signed the entire Membership Application and are legally bound by all of the terms and conditions contained therein.

#### FEES AND OTHER CHARGES

You agree to pay, and authorize Nadex to withdraw from Your Account:

(a) any fees or charges associated with any transactions executed on the Nadex System for Your Account at such rate as is posted on Nadex's website or as incorporated into the Nadex Rules at the time the transaction is executed; (b) any costs or expenses incurred by Nadex in connection with Your Account, including, but not limited to, any non-sufficient funds charges or charges imposed by Nadex's settlement bank; and (c) any other charges agreed upon between You and Nadex.

#### NADEX INVESTMENT OF MEMBER'S FUNDS

Except as prohibited by the regulations of the CFTC, all cash and other property in Your Account or otherwise held by Nadex on Your behalf may, from time to time, without notice to You, be co-mingled with the property of other Members or be invested by Nadex, separately or with any other property, consistent with Commission Regulation 1.25.

#### THE NADEX ELECTRONIC TRADING SYSTEM

(a) Nadex is making available to You access to the Nadex System for trading certain derivative instruments under the terms and conditions stated in this Membership Agreement and in the Nadex Rules.

(b) You understand that the Nadex System may be accessed only electronically.

(c) No Liability. You understand that while electronic access generally is dependable, technical problems or other conditions may delay or prevent You from accessing Your Account or entering or canceling an order on the Nadex System, or may delay or prevent an order transmitted to the Nadex System from being executed. NADEX, ITS AFFILIATES, AND ITS SOFTWARE, HARDWARE, AND SERVICE PROVIDERS SHALL NOT BE LIABLE TO YOU FOR, AND YOU AGREE NOT TO HOLD OR SEEK TO HOLD ANY OF THEM LIABLE FOR, ANY TECHNICAL PROBLEMS; NADEX SYSTEM FAILURES OR MALFUNCTIONS; NADEX SYSTEM ACCESS OR CAPACITY PROBLEMS; HIGH INTERNET TRAFFIC; INTERRUPTIONS DUE TO SCHEDULED OR UNSCHEDULED MAINTENANCE, UPGRADING OR REPAIRS; SECURITY BREACHES OR UNAUTHORIZED ACCESS BEYOND THE REASONABLE CONTROL OF NADEX; ANY FORCE MAJEURE EVENT; AND OTHER SIMILAR PROBLEMS AND DEFECTS. NOTHING IN THIS SECTION IS INTENDED TO LIMIT THE LIABILITY OF ANY PERSON AS MAY BE PROVIDED IN THE COMMODITY EXCHANGE ACT, THE REGULATIONS OF THE CFTC, OR ARISING FROM ACTS OF WILLFUL OR WANTON MISCONDUCT.

(d) Some of the information available on the Nadex System is produced by Nadex, and some is provided by various independent sources believed by Nadex to be reliable ("Information Providers"). You acknowledge that the accuracy, completeness, timeliness, and correct sequencing of the information concerning Your trading and Account activity, the quotes, market and trading news, charts, trading analysis and strategies, and other information that may be provided from time to time, (collectively referred to as the "Information,") is the property of Nadex and/or the Information Providers or others and may be protected by copyright. You agree not to reproduce, retransmit, disseminate, sell or distribute the Information in any manner without the express written consent of Nadex and the relevant

Information Provider(s) and not to use the Information for any unlawful purpose. Although Nadex believes the Information provided by the Information Providers through the Nadex System is complete and correct, the accuracy of the Information cannot be guaranteed and any reliance by You on such information is done solely at Your own risk.

(e) You shall be responsible for providing and maintaining the means by which You will access the Nadex System, which may include a personal computer, modem and telephone or other access line. You are responsible for all access and service fees necessary for You to connect to the Nadex System and You are responsible for all charges incurred by You in accessing the Nadex System.

#### ELECTRONIC COMMUNICATION WITH MEMBERS

All communications between You and Nadex shall be via electronic mail ("email") to the email address registered with Your Account. In addition, Nadex may communicate with You by posting information on the Nadex website. You consent to receive all communications from Nadex by email or through the Nadex website, including confirmations, amendments to this Membership Agreement, amendments to the Nadex Rules and policies, notices, and any correspondence relating to Your Nadex Account or membership and You agree to be bound by all communications contained therein.

You shall be deemed to have received any such communications sent to Your current email address and/or posted on the Nadex website under the "Nadex Notices" section of the website. It is your responsibility to check the "Nadex Notices" section of the website on a regular basis while maintaining a membership on Nadex. Confirmations of transactions sent to your email address shall be conclusive and final unless You notify Nadex of an error within five (5) days of Nadex sending the email confirmation.

In order to maintain membership on the Nadex System, You are required to maintain an active email account and You may not share said email account with anyone. (For clarification, You must be the only person able to access the email address given to Nadex.) You agree to protect the password and user identification of such email account in order to protect the confidentiality of any correspondence between You and Nadex.

You must inform Nadex of any changes to Your email address within 24 hours of said change.

#### ELECTRONIC SIGNATURES

Your intentional action in electronically signing this Membership Application is valid evidence of your consent to be legally bound by this Membership Application or governing your relationship with Nadex, Inc. The use of an electronic version of the Membership Application fully satisfies any requirement that such Membership Application be provided to You in writing. You acknowledge that You may access and retain a record of the documents that You electronically sign through the Nadex System. You are solely responsible for reviewing and understanding all of the terms and conditions contained in the Membership Application. You accept as reasonable and proper notice, for the purpose of any and all laws, rules and regulations, notice by electronic means, including, the posting of modifications to this Agreement on the Nadex website. You acknowledge and agree that Nadex may modify this Membership Application, in whole or in part, from time to time and You agree to consult the Nadex website from time to time for the most up-to-date Membership Agreement. The electronically stored copy of this Membership Application is considered to be the true, complete, valid and authentic and enforceable record of the Membership Application, admissible in judicial or administrative proceedings to the same extent as if the documents and records were originally generated and maintained in printed form. You agree not to contest the admissibility or enforceability of Nadex electronically stored copy of the Membership Application in any proceeding arising out of the terms and conditions of the Membership Application.

#### SUBMISSION OF IDEAS

Nadex allows Members to submit ideas, concepts, designs or inventions for instruments or any other relevant topic (collectively "Ideas"). However, Members should not reveal to Nadex any Ideas for which a Member wants to receive any compensation or credit. By submitting Ideas to Nadex, You expressly agree



to give up any and all rights You may have to such Ideas and You agree to transfer to Nadex all of Your rights pertaining to such Ideas. By submitting any Ideas to Nadex, You expressly authorize Nadex to use and benefit from the Ideas as Nadex may decide. Nadex will not provide You with any compensation or credit for any Ideas You submit. By submitting an Idea to Nadex, You give up all control You might otherwise have concerning such Ideas.

#### MEMBER REPRESENTATIONS

Member hereby represents and warrants as follows:

(a) If You are a natural person, You (i) reside in the United States or one of the acceptable regions identified on the Nadex website, (ii) maintain an account at a US Financial Institution as that term is defined in Nadex Rule 1.1 bank account in your name that you will use to fund your Nadex account, or if you are a non-US resident, that you maintain account at a US Financial Institution as that term is defined in Nadex Rule 1.1 or Foreign Bank that you will use to fund your Nadex account through a Correspondent Account, and (iii) are at least the age of majority if you reside in the United States or its territories, or 21 if you reside in a region other than the United States;

(b) If You are anything other than a natural person (e.g., a corporation, partnership, sole proprietorship, or trust), You are duly organized in the United States, in good standing, maintain an account at a US Financial Institution as that term is defined in Nadex Rule 1.1 United States bank account in the name of the entity applicant, and have the legal authority and are duly authorized and empowered to execute and deliver this Membership Agreement on behalf of such entity and to open accounts and effect transactions in commodities, futures, options, and swaps on the Nadex System on behalf of such entity;

(c) Placing orders on the Nadex System does not and will not violate any governing documents, applicable law, or any judgment, decree, order or agreement to which You or Your property is subject, and this Membership Agreement is binding on and enforceable against You in accordance with its terms;

(d) You and, if relevant, Your employees and agents will not trade or otherwise act on behalf of any other person or entity (whether or not a Member) in placing orders on the Nadex System, including by allowing any person not disclosed on the Membership Application to have an economic interest in the trades placed by the Member;

(e) You have determined that the trading of commodities, futures, options, and swaps is appropriate for You; and

(f) You shall promptly notify Nadex in writing if any of the representations in this Agreement materially change or cease to be true and correct.

#### NO WARRANTY

YOU UNDERSTAND THAT NADEX, ITS AFFILIATES, AND ITS SOFTWARE, HARDWARE, AND SERVICE PROVIDERS PROVIDE THE NADEX SYSTEM "AS IS" AND WITHOUT ANY WARRANTY OR CONDITION, EXPRESS, IMPLIED OR STATUTORY. NADEX, ITS AFFILIATES AND ITS SOFTWARE, HARDWARE AND SERVICE PROVIDERS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

#### MANDATORY ARBITRATION

Any controversy or claim arising out of or in connection with this Membership Agreement or the performance or breach hereof, or relating to Your Account, including any claim against Nadex, a Nadex settlement bank, or any other Nadex Member, shall be settled by arbitration as set forth in the Nadex Rules.

#### TERMINATION

This Membership Agreement may be terminated by You or Nadex at any time by giving written notice to the other party. In the event of such termination, Nadex will immediately liquidate all outstanding positions in Your Account in such manner as Nadex sees fit and instruct Nadex's settlement bank to remit the proceeds from such liquidation along with all other funds in Your Account to Your bank account identified in Your Nadex account by means of electronic payment or wire transfer. The termination of this Agreement will not prejudice

any accrued rights or obligations relating to any transaction effected prior to termination, or any right or remedy available to Nadex. If, at the time of termination of this Membership Agreement, You owe any amount to Nadex, Nadex may retain or keep possession of the portion of any balances or instruments in Your Account in satisfaction of such amounts owed by You to Nadex or until You otherwise pay all amounts owing to Nadex. The obligations of confidentiality, the warranty exclusions, the limitations of liability, the assignment of Ideas provision, the mandatory arbitration provision, and choice of law provision stated in this Agreement will survive termination.

Nadex reserves the right to terminate Your Account or block access to Nadex for any reason allowable under applicable law.

#### CHOICE OF LAW

THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND ALL DISPUTES HEREUNDER SHALL BE GOVERNED BY, THE LAWS OF THE STATE OF ILLINOIS AS APPLIED TO CONTRACTS MADE AND TO BE PERFORMED IN ILLINOIS, WITHOUT APPLYING CONFLICT OF LAW RULES.

#### MISCELLANEOUS.

(a) **Order of Precedence.** In the event of any conflict among this Membership Agreement and any of the documents incorporated herein by reference, the following order of precedence will apply: Nadex Rules; entity certification or authorization that is supplemental to this Membership Agreement; this Membership Agreement itself (excluding documents incorporated herein by reference); Terms of Use; and the Privacy Policy.

(b) **Assignment.** Member may not assign (directly, by operation of law, or otherwise) this Membership Agreement or any of its rights or obligations under this Agreement. Subject to the foregoing, this Membership Agreement shall be binding upon and inure to the benefit of Nadex, its successors and assigns, You and Your legal representatives, executors, trustees, administrators, and (if an assignment cannot be prohibited) Your successors and assigns.

(c) **Severability.** If any part, term, or provision of this Membership Agreement is held by any body of competent jurisdiction to be illegal or in conflict with any laws or regulations, a modified provision shall be substituted which carries out as nearly as possible the original intent of the parties and the validity of the remaining portions or provisions shall not be affected or impaired.

(d) **Entire Agreement.** This Membership Agreement, including all documents incorporated herein by reference, is intended as the complete, final and exclusive statement of the terms of the agreement between the parties and supersedes all prior understandings, writings, proposals, representations or communications, oral or written, relating to the subject matter hereof. There are no terms, conditions or obligations other than those contained herein and those incorporated by reference. Notwithstanding the above, You acknowledge that from time to time, You may enter into certain additional agreements with, or receive certain disclosure documents from, Nadex, and such other agreements or documents shall be valid and binding upon You as a Member of Nadex.

(e) **Amendment.** This Membership Agreement may be amended unilaterally by Nadex upon written notice to You. You will be deemed to agree to each such amendment if You do not terminate this Membership Agreement prior to the effective date of the amendment.

(f) **Waiver.** Failure of either party to enforce compliance with any provision of this Membership Agreement shall not constitute a waiver of such provision unless accompanied by a clear written statement that such provision is waived. A waiver of any default hereunder or of any of the terms and conditions of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or of any other term or condition, but shall apply solely to the instance to which such waiver is directed.

(g) **Cumulative Remedies.** The rights and remedies conferred upon Nadex herein shall be cumulative, and the exercise of any right or remedy provided herein or at law or equity shall not preclude the exercise of additional rights and remedies provided by law or equity.



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BY CLICKING "I ACCEPT" YOU HEREBY AGREE TO THE TERMS OF THIS MEMBERSHIP AGREEMENT AND EXPRESSLY ACKNOWLEDGE THAT YOU HAVE RECEIVED, READ AND UNDERSTOOD ALL DOCUMENTS INCORPORATED HEREIN BY REFERENCE.



**NADEX**

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